

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF AMERICAN COMMUNICATION	)	
SERVICES OF LEXINGTON, INC. FOR THE ISSUANCE	)	CASE NO.
OF A CERTIFICATE OF PUBLIC CONVENIENCE AND	)	95-361
NECESSITY TO PROVIDE INTRASTATE SERVICES TO	)	
CONSUMERS LOCATED WITHIN KENTUCKY	)	

O R D E R

On August 22, 1995, American Communication Services of Lexington, Inc. ("ACSI") filed an application for a Certificate of Public Convenience and Necessity to provide intrastate special access and private line telecommunications services. ACSI is a Delaware corporation with its principal offices in the state of Maryland. ACSI intends to provide intraexchange, high capacity, fiber transmission services, known as special access and private line, to telecommunications customers in the Commonwealth of Kentucky. The proposed services will compete directly with local exchange carriers' access services which are used primarily to interconnect users and interexchange carrier points-of-presence.

ACSI currently seeks the authority to provide non-switched, intraexchange, private line telecommunications services. Although ACSI is aware of Administrative Case No. 323,<sup>1</sup> in which the Commission ordered that the geographic scope of competition will

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<sup>1</sup> Administrative Case No. 323, An Inquiry Into IntraLATA Toll Competition, An Appropriate Compensation Scheme for Completion of IntraLATA Calls by Interexchange Carriers, and WATS Jurisdictionality.

extend to, but not within the local calling area, ACBI opposes any decision that would preclude it from providing intraexchange private line services within a local calling area. ACBI argues that it should not be prohibited from originating and terminating its services within a local calling area because such a prohibition would, as a practical matter, reduce or eliminate its ability to serve its customers.

The Commission finds that ACBI should be prohibited from providing services which originate and terminate within an exchange or local calling area. ACBI is participating in Administrative Case No. 355,<sup>2</sup> which the Commission has initiated to investigate the feasibility of local competition. All interested parties will have an opportunity to discuss the provision of telecommunications services within exchanges and local calling areas. Any decisions in that proceeding may affect the authority granted herein.

The Commission finds that ACBI should be granted statewide operating authority. In addition to the limitation set forth above, ACBI should submit a written notice, which refers to this proceeding, to the Commission at least 60 days in advance of any proposed construction. The notice should explicitly describe the routes and extent of facilities to be constructed. This notice will inform the Commission of ACBI's proposed extension of intrastate service and offer an opportunity for affected entities to request additional consideration by the Commission.

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<sup>2</sup> Administrative Case No. 355, An Inquiry Into Local Competition, Universal Service, and the Non-Traffic Sensitive Access Rate.

ACSI has demonstrated its financial, managerial, and technical capability to provide utility service. The Commission finds that ACSI should be authorized to provide intrastate interexchange telecommunications services within the Commonwealth of Kentucky, as described in this Order and its application and with the restrictions in this Order.

ACSI should add language to its proposed tariff to indicate clearly that ACSI is strictly prohibited from facilitating, in whole or in part, any telecommunications services within an exchange or local calling area and that any violation will result in immediate termination of the customer's service. ACSI shall file its proposed tariff with the modification mentioned above, as the fair, just, and reasonable rates to be charged.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, HEREBY ORDERS that:

1. ACSI is granted authority to provide intrastate interexchange non-switched telecommunications services within the Commonwealth of Kentucky as described in this Order and in its application, on and after the date of this Order.

2. ACSI shall notify the Commission, as described, at least 60 days prior to any additional construction required to provide intrastate telecommunications services.

3. ACSI's authority to provide service is strictly limited to those services described in this Order and its application. In addition, ACSI is prohibited from facilitating, in whole or in part, special access or private line services that originate and

terminate within an exchange or local calling area and from providing any switched services.

4. Within 30 days from the date of this Order, ACSI shall file pursuant to 807 KAR 5:011 its modified tariff sheets.

5. The authority granted in this Order is subject to modification by the Commission's decisions in Administrative Case No. 355.

Done at Frankfort, Kentucky, this 21st day of December, 1995.

PUBLIC SERVICE COMMISSION

*Amila K. Breaugh*  
Chairman

Vice Chairman

*Robert M. Davis*  
Commissioner

ATTEST:

*Don Mills*  
Executive Director